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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,408	04/01/2004	Patricia L. Gardner	02-014-01 (IDRF118)	7986
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EXAMINER				
IDELL, JOSEPH T				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/815,408

Applicant(s)

GARDNER ET AL.

Examiner

Joseph F. Edell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 January 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claims 6, 8, and 9 are objected to because of the following informalities: "second portion(s)" should read --second recessed portion(s)--. Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 5, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,563,601 to Dickey in view of U.S. Patent No. 4,393,865 to Lambert.

Dickey discloses an infant holder that is basically the same as that recited in claims 1, 2, 5, 6, and 8 except that the angle ranges of the recesses are not specified, as recited in the claims. See Figures 1-6 of Dickey for the teaching that the infant holder has a body 18 including a first recess/portion (accommodating the backrest 24) configured to support an infant's torso and an adjoining second recesses/recessed portions (within retaining portions 26) configured to support the infant's legs such that the thighs extending out from the torso and incline relative to the torso wherein the

second recessed portions are positioned opposite one another on either side of the first portion and extend away from the first portion. However, Dickey does not set forth the angle in which the thighs extend out from the torso or the angle in which the legs incline relative to the torso. Lambert shows an infant holder similar to that of Dickey wherein the holder orients an infant's torso and legs such that the thighs extends out from the torso at an angle about 90° and incline relative to the torso at an angle about 30° . Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the infant holder of Dickey such that the second recesses are configured to support the infant's legs such that the thighs extends out from the torso at an angle about 90° and incline relative to the torso at an angle about 30° , such as the holder disclosed by Lambert. One would have been motivated to make such a modification in view of the suggestion in Lambert that the specified angular configurations retains an infant's thighs to prevent or cure hip abnormalities. Please note that Dickey contemplates correction of hip abnormalities.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey in view of Lambert as applied to claims 1, 2, 5, 6, and 8 above, and further in view of U.S. Patent No. 4,000,736 to Brusceri.

Dickey, as modified, discloses an infant holder that is basically the same as that recited in claim 3 except that the angle configuration to support the infant's calves relative to the thighs are not specified, as recited in the claims. Please note that the angular configuration of Lambert teach the utility in supporting the infant's calves angled to the infant's thighs. Brusceri shows a legs support similar to that of Dickey wherein

the leg support is configured to support the user's leg such that the calf extends out from the thigh at an angle about 90° . Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holder of Dickey such that the second recesses are configured to support the infant's legs such that the calves extend out from the thighs at an angle of about 90° , such as the leg support disclosed by Brusceri. One would have been motivated to make such a modification in view of the suggestion in Brusceri that the calf-thigh configuration aids in back posture. Please note that the limitation "angle of about 90° " is broad enough to encompass angle exceeding and less than 90° .

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey in view of Lambert as applied to claims 1, 2, 5, 6, and 8 above, and further in view of U.S. Patent No. 5,329,934 to Bowman.

Dickey, as modified, discloses an infant holder that is basically the same as that recited in claim 4 except that the decline angle configuration to support the infant's calves relative to the thighs are not specified, as recited in the claims. Please note that Dickey, as modified, teaches a holder maintain the infant's legs in the frog-leg orientation. Bowman shows an infant holder similar to that of Dickey wherein the holder maintains the infant's legs in the frog-leg orientation (see Fig. 1) to support the infant's legs such that the calves decline relative to the thighs (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holder of Dickey such that the second recesses are configured to support the infant's legs such that the calves decline relative to the thighs, such as the holder

disclosed by Bowman. Although the angle of decline relative to the thigh is not specifically set forth, modifying this angle to be about 10° would have been obvious at the time of Applicant's invention because the use of optimal workable ranges discovered by routine experimentation is ordinarily within the skill of the art. One would have been motivated to make such a modification in view of the knowledge generally available to one skilled in the art that an infant's calves declining relative to the thighs at an angle of about 10° is natural anatomical orientation of the calves when in the frog-leg orientation.

Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey in view of Lambert as applied to claims 1, 2, 5, 6, and 8 above, and further in view of U.S. Patent No. 4,958,393 to Brecher.

Dickey, as modified, discloses an infant holder that is basically the same as that recited in claims 7 and 10 except that the angle of the first portion's inclination is not specified, as recited in the claims. See Figure 4 of Dickey for the teaching that that first portion has a base sidewall wherein the base is inclined relative to the horizontal. Brecher shows an infant holder similar to that of Dickey wherein the holder has a first portion (along wall 2 - see Fig. 2) with a base and sidewalls such that the base is inclined at an angle about 10° . Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the holder of Dickey such that the first portion's base is inclined at an angle of about 10° , such as the holder disclosed by Brecher. One would have been motivated to make such a modification in view of the suggestion in Brecher that the inclined first portion provides

an oblique floor, and in view of the knowledge generally available to one skilled in the art that inclined torso and head supports are desired to encourage visual stimulus in the seated infant.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickey, as modified, in view of Brecher as applied to claims 7 and 10 above, and further in view of Bowman.

Dickey, as modified, discloses an infant holder that is basically the same as that recited in claims 9 and 11 except that the decline angle configuration to support the infant's calves relative to the thighs are not specified, as recited in the claims. Please note that Dickey, as modified, teaches a holder maintain the infant's legs in the frog-leg orientation. Bowman shows an infant holder similar to that of Dickey wherein the holder maintains the infant's legs in the frog-leg orientation (see Fig. 1) to support the infant's legs such that the calves decline relative to the thighs (Fig. 2). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the holder of Dickey such that the second portions recesses are configure to support the infant's legs such that the calves decline relative to the thighs, such as the holder disclosed by Bowman. Although the angle of decline relative to the thigh is not specifically set forth, modifying this angle to be about 10° would have been obvious at the time of Applicant's invention because the use of optimal workable ranges discovered by routine experimentation is ordinarily within the skill of the art. One would have been motivated to make such a modification in view of the knowledge generally available to one skilled in the art that an infant's calves declining relative to the thighs at

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an angle of about 10° is natural anatomical orientation of the calves when in the frog-leg orientation.

Response to Arguments

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Joseph F Edell/
Primary Examiner, Art Unit 3636
April 23, 2008